MM WAT-2 **Alternative Water Source and Groundwater Offsets.** For any year during which it is projected that the Chuckwalla Valley Groundwater Basin (CVGB) would be affected by overdraft conditions, the project owner shall either offset or avoid using CVGB water to meet water supply requirements associated with construction, operation and maintenance, or decommissioning of the Desert Harvest Solar Project (DHSP). The purpose of this measure is to avoid contributions of the project to overdraft conditions in the CVGB, regardless of the magnitude of the project's incremental contribution to such conditions.

This measure shall be implemented based on projections of overdraft conditions provided in Table 4.20-5 (Estimated Cumulative Budget for the Chuckwalla Valley Groundwater Basin (afy)) of this EIS and in the Water Supply Assessment (WSA) included as Appendix E, or based on revised projections of overdraft conditions provided by the project owner (or a representative of the project owner) to the BLM Hydrologist in the form of a revised WSA prepared in accordance with Senate Bill 610, and approved of by the BLM Hydrologist. The project owner may choose to revise projections of overdraft conditions if the cumulative projects scenario upon which existing overdraft projections are based changes such that certain water-consuming projects in the cumulative scenario would not occur and associated overdraft conditions also would not occur, or would be less substantial than currently projected. It is reasonable and appropriate to use projections of overdraft as the trigger for this mitigation measure, as opposed to using actual data obtained through groundwater monitoring, because the presence of overdraft requires long-term monitoring efforts in order to identify; although the BLM is presently (at the time of publication of this Final EIS) implementing a groundwater monitoring program throughout the CVGB, monitoring results that would be useful towards characterizing overdraft in the basin will not be available for several years, at least, and therefore would not be usable for the proposed project or the purposes of this mitigation measure.

The WSA included as Appendix E to the EIS projects that overdraft conditions in the CVGB may occur during each year of project operations, through 2043, to varying degrees of severity and decreasing over time. In order to ensure that the DHSP does not contribute to overdraft conditions during these projected years of overdraft, or revised projections of overdraft years provided by the project owner and approved of by the BLM, the project owner may either offset ground water ~~from~~ by recharging the CVGW with an out-of-basin source, or the project owner may implement in-basin water conservation measures to replace any water consumed from the CVGB on an acre-foot by acre-foot bases. Each of these options is described below. The project owner shall verify implementation of these actions in an annual report to the BLM.

- **Out-of Basin Water Source.** To offset groundwater pumped on site (or very nearby the site if offsite wells are used), the project owner may purchase water ~~supply for the DHSP~~ from a source outside of the CVGB and use this

water to recharge the CVGB via recharge ponds within the CVGB, such as the planned Upper Chuckwalla Groundwater Basin recharge pond under the management of Metropolitan Water District. Out-of-basin water may not be trucked to the project site from outside of the basin. Water shall be replaced on a 1:1 basis. ~~water purveyor which delivers non-CVGB water, such as California State Water Project water that is delivered by a purveyor in the project area, per contractual agreement between the project owner and the purveyor.~~ Out-of-basin water sources may include water obtained through the Hayfield Lake / Chuckwalla Valley Groundwater Conjunctive Use Project administered by the Metropolitan Water District (MWD) of Southern California~~; although the Hayfield Valley aquifer is part of the Orocopia Valley Groundwater Basin, which provides inflow to the CVGB, this Conjunctive Use Project is a managed supply under MWD jurisdiction and therefore would not be considered direct use of CVGB water. Out-of-basin water sources may include water delivered to the project site by MWD or another water purveyor from any source other than the CVGB.~~ All water used to offset on-site pumping shall originate from outside the CVGB and shall recharge only the CVGB (and not any other basin, including hydrologically connected basins). On-site pumping may not occur until the associated recharge has begun.

- **In-Basin Water Conservation.** CVGB water may be consumed towards project purposes only if all CVGB water consumed is "replaced" on an acre-foot by acre-foot basis through implementation and/or participation by the project owner in a Forbearance and Fallowing Program within the CVGB, as described below.
    - *Implement a Forbearance and Fallowing Program*. The project owner may enter into a contractual agreement with willing land owner(s) and/or lessee(s) to fallow fields which are currently irrigated. The contract shall specify the duration of fallowing, during which time no water may be applied to the contracted field. Each field which is fallowed under this program must be located within the CVGB and must receive its water supply from the CVGB. The land owner(s) and/or lessee(s) cannot be simultaneously contracting with another entity to fallow the same fields, unless agreed upon by all parties.
    - *Participate in a Forbearance and Fallowing Program*. The project owner may participate in a program implemented within the CVGB by another entity, where such a program meets the requirements described in the preceding bullet, and each field fallowed through this collaborative effort is located within the CVGB and receives its water supply from the CVGB.

The out-of-basin water source and in-basin water conservation measures described above may be implemented individually or in congruence with each other, as is most effective to ensure that no net consumption of CVGB water

occurs during years of projected overdraft conditions. The project owner shall submit an annual report to the BLM which verifies that one or more of the actions described above are implemented to ensure that no net consumption of CVGB water occurs during any year in which the CVGB is projected to be in overdraft conditions, regardless of the DHSP's incremental contributions to such conditions, and based upon either the overdraft projections identified in the WSA included as Appendix E to this EIS, or based upon revised overdraft projections produced by the project owner and approved of by the BLM Hydrologist.

The applicability of MM WAT-3 and MM WAT-7 are contingent upon how this MM WAT-2 is implemented, as described below.

- If groundwater pumped from the CVGB is used in conjunction with an out-of-basin water source and in-basin water conservation measures, the DHSP Environmental Monitor(s) shall verify that all groundwater monitoring and reporting requirements identified in MM WAT-3 (Groundwater Drawdown Monitoring and Reporting Plan) and MM WAT-7 (Colorado River Water Supply Plan) are implemented.
- ~~If an out-of-basin water source is used to meet all of the DHSP water supply requirements and no water is pumped from the CVGB or a basin tributary to the CVGB during construction, operation and maintenance, or decommissioning of the DHSP, then MM WAT-3 and MM WAT-7 would not be necessary. Water supply provided by MWD from the Hayfield / Chuckwalla Valley Groundwater Conjunctive Use Project would be considered an out-of-basin water source despite connectivity of the Hayfield Valley and Orocopia Valley to the Chuckwalla Valley, because this program is actively managed by MWD towards the purpose of water supply reliability.~~

The Right-of-Way Grant holder, its successors, heirs and assigns may not assert any claim to or interest in any water right to surface or groundwater associated with the project site, project construction, or operations, provided, however, that the applicant may use groundwater consistent with the terms and conditions of the project's Right-of-Way Grant(s).

MM PHS-8 **Develop and implement plan to address munitions and explosives of concern (MEC).** The plan shall include the following;

1. Historical Research. The project owner shall take steps to gather detailed information on the history of military activities within the proposed project footprint. This shall include further research regarding prior MEC removals that may have been issued in the past for certain areas by military or other investigating entities and archival research with the cooperation of the Department of Defense.
2. Department of Defense Consultation. The project owner shall consult with the Department of Defense on the likely occurrence of, and safe treatment

of, MECs in the project area. As a result of the historical occurrence of military training activities throughout the Desert Training Center/California-Arizona Maneuver Area, potentially including the project area, this MEC consultation and archival research shall address the entire project footprint.

3. Further Assessment as Appropriate. After initial research and consultation with Department of Defense personnel, the project owner shall undertake, as necessary, further appropriate above and below-ground assessments, under the direction of an expert consultant team (as determined by BLM), to delineate areas for further investigation and possible MEC removal. The project owner, under direction from the BLM, shall determine which site-specific in-field investigative techniques and methodologies will be utilized to investigate and resolve potential MEC issues prior to project construction.
4. MEC Safety Training. All construction personnel shall receive appropriate MEC health and safety awareness training to ensure that they know what actions to take if unanticipated MEC or other suspicious articles are encountered during construction.
5. The site shall be surveyed and cleared of all munitions and explosives of concern by a qualified expert prior to the issuance of a notice to proceed.

~~**MM WIL-7 Desert Kit Fox and American Badger Impact Avoidance.** The project owner shall contract a qualified biologist to prepare a Draft Passive Relocation Plan for Desert Kit Fox and American Badger; conduct a pre-construction survey to locate and identify all potential dens or burrows of desert kit fox or American badger within the proposed solar facility project area; and implement the Passive Relocation Plan. Surveys and exclusion of any desert kit fox or American badger present will be scheduled and designed to be completed before initiation of site preparation (i.e., site clearing, initial grading, or storage pond construction) to ensure these animals are not within the site as construction proceeds. The survey should be conducted well in advance of site preparation or desert tortoise exclusion fencing to ensure effective passive relocation of the animals from the project site. The Draft Passive Relocation Plan shall be submitted to CDFG and BLM for review and approval and to JTNP for review and comment prior to implementation. The passive Relocation Plan shall include measures as listed below, to be implemented if potential burrows of either species are located within the project area.~~

~~1. All potential kit fox or badger dens shall be classified as inactive, potentially active, or definitely active. Inactive dens within the project area, or that would be directly impacted by any construction activities, shall be excavated by hand and backfilled to prevent reuse.~~

~~2. Potentially active dens within the project boundaries shall be monitored for three consecutive nights using a tracking medium (such as diatomaceous earth or fine clay) and/or motion-activated infrared camera stations at the~~

~~entrance. If no tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be considered inactive, and excavated and backfilled by hand.~~

~~3. Occupied kit fox or badger dens, if present, shall be flagged and monitored daily to determine whether the den is occupied by a female with young (i.e., a maternity den) and ground disturbing activities shall be avoided within 200 feet of the den as long as it remains occupied.~~

~~4. The Plan shall include an inventory of existing, suitable, and unoccupied burrow sites within 100 meters (330 feet) of the project area or work site. If badgers or kit foxes must be relocated from the project area, at least two unoccupied "escape dens" must be available for each active badger or kit fox den to be excavated. If insufficient unoccupied escape dens are available, then the project owner shall construct them at suitable sites outside the project boundaries for each active badger or kit fox den to be excavated prior to passive relocation or forced dispersal. The Draft Plan will include a description of any proposed or potential ground disturbing activities related to kit fox relocation (e.g., locations for artificial burrow construction).~~

~~5. Solitary male kit foxes or badgers, or females without young, shall be "passively relocated" by slowly excavating the burrow (by hand under the direct supervision of the Designated Biologist) and allowing the animal to disperse from the site (e.g., by providing a temporary monitored opening in the fence and directing the animal toward the opening with temporary plastic construction fencing). In the event that passive relocation techniques fail, the project owner will contact CDFG to explore other relocation options.~~

~~6. Maternity dens shall be avoided during the pup rearing season and a minimum 200-foot disturbance-free buffer maintained around them. Female kit foxes or badgers with young, if present, shall not be directed off-site until the young are ready to leave the dens and sufficiently independent from the parents.~~

~~7. The Plan will include measures to prevent animals from returning to the project site or, if they do return, to passively exclude them a second time.~~

~~8. The Plan will provide CDFG the opportunity to test animals for canine distemper virus, vaccinate them against it, fit the animals with radio collars for follow up tracking, or take other management actions as appropriate.~~

~~9. A written memorandum documenting the implementation of the removal or forced dispersal shall be provided to BLM, Riverside County, CDFG, and JTNP within 30 days of completion.~~

MM WIL-7 **Desert Kit Fox and American Badger Impact Avoidance.** The project owner shall contract a qualified biologist to conduct a baseline kit fox census and population health survey and prepare and implement a Desert Kit Fox Management Plan.

1. ***Baseline Kit Fox Census and Population Health Survey:*** A qualified biologist with demonstrated mammal experience shall complete a baseline study of desert kit fox populations on the project site and the anticipated dispersal areas for passive relocation at least 60 days prior to initiation of construction activities. The anticipated dispersal areas shall be defined as all suitable desert kit fox habitat within 500 meters of the western, southern, and eastern project boundaries. The study shall characterize the demographics (e.g., size, structure, and distribution) of the kit foxes on the site and anticipated dispersal areas. The baseline study shall include the following components:

    a. An inventory and mapped locations of desert kit fox burrows on the project site and in the anticipated dispersal areas, and an evaluation whether each burrow is occupied, and reproductive status of kit foxes (single animal, mated pair, or family group with young). See Pre-Construction Surveys below.

    b. Health screening of each animal to determine exposure to canine distemper virus or other conditions, as recommended by federal or State wildlife health officials [e.g., the CDFW [formerly CDFG] Wildlife Investigations Lab (WIL)]. All capturing or handling of desert kit foxes shall be under the immediate supervision of WIL staff. The Applicant will coordinate with WIL and fund the health studies to establish baseline health conditions.

    c. Reporting: The Applicant shall provide a draft Summary Report of the Baseline Kit Fox Census and Population Health Survey to BLM for review in consultation with CDFW and USFWS. The Applicant shall not implement the Desert Kit Fox Management Plan (below) until receiving BLM's written approval of the Summary Report.

2. ***Prepare Desert Kit Fox Management Plan*****:** At least 45 days prior to construction, the Applicant shall submit a draft Desert Kit Fox Management Plan to BLM for review and approval in consultation with CDFW and USFWS. The Desert Kit Fox Management Plan shall 1) incorporate baseline desert kit fox census and health survey findings into a cohesive management strategy that minimizes disease risk to kit foxes; 2) specify a cost and funding mechanism (e.g., NFWF Account) to fund CDFW for tagging, radio-tracking and monitoring of a subset of displaced kit foxes during the entire project construction phase to understand how displacement affects regional kit fox populations; 3) specifically identify preconstruction survey methods for kit foxes and large carnivores (e.g., badgers) in the project area; 4) describe a specific protocol for evaluating occupancy or activity of desert kit fox or American badger at each burrow or den; 5) describe preconstruction and construction-phase passive relocation methods from the site; 6) specify the coordination of survey findings prior to and during construction to meet the

information needs of wildlife health officials in monitoring the health of kit foxes on the site and in surrounding anticipated dispersal areas; 7) specify communications and reporting protocols for plan implementation, all observations of injured, ill, or dead kit foxes or badgers, and handling protocols for kit fox or badger carcasses; and 8) identify reporting procedures, including specification of dates and contents of all implementation reports, who they will be submitted to, and any required review/approval process. The Plan shall include contingency measures to be performed if canine distemper is documented in the project area or anticipated dispersal areas adjacent to the project site, and measures to address potential kit fox re-occupancy of the site (such as was documented at the Genesis site). The contents and requirements of the Plan shall be subject to review and approval by the BLM and CDFW. The Applicant shall not implement the Desert Kit Fox Management Plan (below) until receiving BLM's written approval of the Summary Report.

3. ***Implement Desert Kit Fox Management Plan:*** If canine distemper is not identified in the project area or relocation areas during baseline surveys, the mitigation strategy may utilize passive means to relocate kit foxes from the site, with appropriate CDFW authorization. The approach below assumes that canine distemper is not detected during baseline surveys. If canine distemper is detected among desert kit foxes on the site or surrounding areas, then the Applicant will coordinate with BLM and CDFW to identify appropriate actions prior to continuing with Plan implementation.

   a. *Pre-Construction Surveys:* Biological Monitors shall conduct pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities. Surveys shall identify and record the locations of all potential dens throughout the project site (or phase or component, as applicable) and within 100 feet of the project boundary (including utility corridors and access roads) and shall be performed for each phase of construction. If dens are detected, each den shall then be further classified as inactive non-natal, inactive natal, potentially active, definitely active non-natal, or active natal den.

   b. Inactive non-natal and inactive natal dens. Inactive dens are burrows that are mostly or completely silted in and the end of the burrow is clearly visible. Inactive non-natal and inactive natal dens that would be directly impacted by construction activities shall be excavated by hand and backfilled to prevent reuse by badgers or kit fox.

   c. Potentially active and definitely active non-natal dens. Potentially and definitely active non-natal dens that would be directly impacted by construction activities shall be monitored by the Biological Monitor for three consecutive nights using a tracking medium (such as diatomaceous earth or fire clay) and/or infrared camera stations at the entrance. If no

tracks are observed in the tracking medium or no photos of the target species are captured after three nights, the den shall be excavated and backfilled by hand. If tracks are observed, the den shall be progressively blocked with natural materials (rocks, dirt, sticks, and vegetation piled in front of the entrance) for the next three to five nights to discourage the badger or kit fox from continued use. After verification that the den is unoccupied it shall then be excavated and backfilled by hand to ensure that no badgers or kit fox are trapped in the den. BLM approval may be required prior to release of badgers on public lands.

d. Active natal dens. Active natal or pupping dens (any den with pups) will not be excavated or passively relocated. The pupping season is generally from January 15 through July 31. A 500-foot no-disturbance buffer shall be maintained around all active dens. Discovery of an active natal den that could be impacted by the project shall be reported to the BLM and CDFW within 24 hours of the discovery. A detailed description outlining the types and methods of monitoring must be included in the plan. The den location shall be mapped and submitted along with a report stating the survey results to the BLM and CDFW. The Designated Biologist shall monitor the natal den until he or she determines that the pups have dispersed. No disturbance will be allowed for any animal associated with a natal den and any activities that might disturb denning activities shall be prohibited within the buffer zone. Once the pups have dispersed, various passive hazing methods may be used to discourage den reuse. A detailed description of the types of passive hazing to be used must be included in the plan; however, approval must be granted by the BLM, in consultation with CDFW prior to implementation. After verification that the den is unoccupied, it shall then be excavated by hand and backfilled to ensure that, no badgers or kit fox are trapped in the den.

e. Exception for American badger. In the event that passive relocation techniques fail for badgers, the project owner will contact the BLM and CDFW to explore other relocation options.

f. The following measures shall be taken to reduce the likelihood of distemper transmission:

    i. No pets shall be allowed on the site prior to or during construction, operation, and decommissioning, with the possible exception of vaccinated kit fox scat detection dogs during preconstruction surveys, and then only with prior CDFW approval;

    ii. Any hazing activities that include the use of chemical or other repellents (e.g. ultrasonic noise makers, or non-animal-based chemical repellents) must be cleared through CDFW prior to use. The use of animal tissue or excretion based repellents (e.g. coyote urine, anal gland products) is not permitted.

iii. Any sick or diseased kit fox, or documented kit fox mortality shall be reported to CDFW and the BLM AO within 8 hours of identification. If a dead kit fox is observed, it shall be collected and stored according to established protocols distributed by CDFW WIL, and the WIL shall be contacted to determine carcass suitability for necropsy.

MM CUL-10 **Radio Program.** A continuous loop radio program or interpretive program focused on motorists on I-10, an appropriate broadcasting location, and associated signage in Desert Center and on I-10 near Desert Center shall be developed, broadcast and installed per the project's MOA. The radio program shall provide information about the North Chuckwalla Petroglyph District (CA-RIV-1383, NRHP-listed), the Coco-Maricopa trail segments (CA-RIV-0053T, determined eligible), and Native American values associated with these sites. Content shall be developed in consultation with all interested tribes. In addition, the program shall provide information about the DTC/C-AMA in general, archaeological site P-33-18392 in particular, and other details about Desert Training Center activities in the Desert Center vicinity. The broadcast or interpretive program shall be maintained for the life of the project, and updated with relevant new information every five years.

MM VEG-4 **Minimize Construction-Related Impacts.** Final engineering of the project will reduce the extent of the temporary construction work areas to the extent feasible and minimize the impacts to native vegetation and habitat. Prior to the start of construction, work areas (including, but not limited to, staging areas, access roads, and sites for temporary placement of construction materials and spoils) will be delineated with orange construction fencing or staking to clearly identify the limits of work and will be verified by the Designated Biologist or the Biological Monitor (MM VEG-1) prior to ground-disturbing activities. Fencing/staking will remain in place for the duration of construction. Spoils will be stockpiled in disturbed areas lacking native vegetation or where habitat quality is poor. To the extent possible, disturbance of shrubs and surface soils due to stockpiling will be minimized. All disturbances, vehicles, and equipment will be confined to the fenced/flagged areas.

Spoils and topsoil will be stockpiled in areas already disturbed or to be disturbed by construction, so that stockpile sites do not add to total disturbance footprint.

When feasible, construction activities will implement drive and crush rather than grading. Construction equipment would drive over and crush native plants to minimize impacts to the roots of desert shrubs. Drive and crush is expected to reduce the recovery time of desert shrubs within the temporary construction areas.

Site grading within the project site shall be localized in nature and limited to major access roads, inverter pad locations, lay down areas, tracker locations and ancillary facilities (including parking area, material storage, operations and maintenance building and switchyard).

With regard to CDFW jurisdictional streams, localized grading will be required to allow vehicle access when the slope is greater than 1 percent at the boundaries of delineated CDFW jurisdictional streambeds and the streambed is deeper than 12 inches (i.e., too

steep for vehicles to traverse unassisted). Additionally, localized grading will be used where foundations or roads must be sited within streambeds. In all other instances, grading within CDFW jurisdictional streambeds shall be only occur when no other equally-sound method of engineering will allow development of the project at an equal or lesser cost than grading.

Excavation shall be limited to trenches for electrical conductors that connect the PV modules and the inverters to the switchyard. The PV modules would be electrically connected by wire harnesses and combiner boxes that would collect power from several rows of modules and feed the project's power conversion stations via direct current (DC) cables placed in underground covered trenches of an estimated 3 feet deep and from 1.5 to 2.5 feet wide.

Temporarily disturbed areas shall be revegetated.

MM VEG-6 **Provide Off-Site Compensation for Impacts to Vegetation and Habitat.** This mitigation measure provides further detail and specificity to the habitat compensation requirements described in AM BIO-1. In addition to compensating for impacts to vegetation resources, this measure also compensates for wildlife habitat resources. The Habitat Compensation Plan will compensate for acreages and habitat types as defined herein. The Plan will be submitted for approval to the BLM, Riverside County, and Resource Agencies prior to the commencement of construction. The Habitat Compensation Plan will be provided to the JTNP for review and comment.

The project owner will acquire and protect, in perpetuity, compensation habitat to mitigate impacts to biological resources as detailed below. The compensation lands will be placed under conservation management to be funded through the terms described herein. The acreages and ratios will be based upon final calculation of impacted acreage for each resource and on ratios set forth in this measure, or in the USFWS Biological Opinion, the CDFG Streambed Alteration Agreement, the CDFG Incidental Take Permit, or the Consistency Determination, whichever presents a higher ratio. Acreages of anticipated compensation requirements as summarized throughout this measure are based on impacts analysis of Alternatives 4 and B (proposed project) in Sections 4.3 and 4.4 and ratios described below. Acreages will be adjusted as appropriate for other alternatives or future modifications during implementation.

Compensation will be provided for impacts to the following resources, at the specified ratios (acres acquired and preserved to acres impacted):

- Blue Palo Verde–Ironwood Woodland (Desert Dry Wash Woodland) (3:1)
- Dune and partially stabilized sandfield habitat (applicable only to Alternative E, all within the Palen-Ford WHMA; 5:1)
- Palen-Ford multi-species Wildlife Habitat Management Area lands (2:1)
- Creosote Bush Scrub (Sonoran Desert Scrub) (1:1)
- State-jurisdictional streambeds (3:1)
- Occupied habitat for special-status plants (1:1; see MM VEG-7)
- Occupied or suitable desert tortoise habitat and habitat linkages (minimum 1:1)

- Occupied and suitable Mojave fringe-toed lizard habitat (only applicable to Alternative E, all within the Palen-Ford WHMA; 5:1)
- Occupied or suitable habitat for breeding or wintering burrowing owls (13 acres for each single burrowing owl or breeding pair if owls occur on compensation lands; 19.5 acres per single burrowing owl or breeding pair if there is no evidence that the compensation lands are currently occupied by burrowing owls). Note that compensation will be required if owls are observed during preconstruction or clearance surveys, or during other incidental observations.
- Golden eagle foraging habitat (1:1)
- Nelson's bighorn sheep movement habitat (1:1)
- General wildlife movement corridors/habitat linkages (1:1)
- Habitat for other special-status wildlife species and nesting birds (1:1)
- Chuckwalla Desert Wildlife Management Area (DWMA) (5:1)
- Chuckwalla Desert Tortoise Critical Habitat Unit (CHU) (5:1)
- Palen-Ford Wildlife Habitat Management Area (WHMA) (~~1~~2:1)

Under the proposed project, a total of 1,300 acres would be impacted (1,208 acres at the project site, and 92 acres along gen-tie Alternative B). Based on the proposed project, total habitat compensation lands would be no fewer than 2,083.5 acres, including, at minimum, 1,300 acres of desert tortoise habitat and 928.5 acres of state-jurisdictional streambeds (including at least 693 acres of Blue Palo Verde–Ironwood Woodland, or Desert Dry Wash Woodland). Final compensatory habitat acreages will be based on the final alternative selected and final project design. Table 4.3-3 details the minimum acres of habitat compensation lands for the proposed project, assuming maximum nesting of compensation lands (see discussion of "nesting" in Item 1 below Table 4.3-3). Final compensation requirements will be adjusted to account for any deviations in project disturbance, according to the final alternative selected, final design, and as-built project footprint. If the project shares gen-tie infrastructure with DSSF as proposed under Alternative B, the DHSP project owner will be responsible only for its proportion of compensation acreage to be acquired as mitigation for impacts of the shared facilities (i.e., 50 percent of compensation land requirements for construction-related impacts for shared infrastructure). The total amount of compensation mitigation lands required under this measure may exceed the acreages identified in Table 4.3-3, in order to provide mitigation for all of the resources identified in this measure.

1. **Nesting Compensation Lands.** Compensation lands for biological resources may be "nested." For example, compensation for impacts to burrowing owls could be entirely or partially fulfilled by the acquisition of Creosote Bush Scrub (Sonoran Desert Scrub) compensation lands, provided those lands also contain suitable or occupied burrowing owl habitat and the acreage of compensation lands for burrowing owls is met. Thus, compensation for burrowing owls or other resources (desert tortoise, rare plants, golden eagle, etc.) may be fully nested within other compensation requirements.

2. **Compensation Ratios.** Where impacted habitats meet criteria as two (2) or more compensation ratios, the highest ratio will apply. For example, impacts to occupied desert tortoise habitat in Creosote Bush Scrub (Sonoran Desert Scrub) within the Chuckwalla DWMA would require mitigation at a 5:1 ratio.

3. **Compensation Land Selection Criteria.** Criteria for the acquisition, initial protection and habitat improvement, and long-term maintenance and management of compensation lands for impacts to biological resources will include all of the following:

    a. Compensation lands selected for acquisition to meet BLM, USFWS, CDFG, and Riverside County requirements will provide habitat value that is equal to or better than the quality and function of the habitat impacted, to be determined by BLM, CDFG, and USFWS biologist, taking into consideration soils, vegetation, topography, human-related disturbance, wildlife movement opportunity, proximity to other protected lands, management feasibility, and other habitat values;

    b. To the extent that proposed compensation habitat may have been degraded by previous uses or activities, the site quality and nature of degradation must support the expectation that it will regenerate naturally when disturbances are removed;

    c. Be near larger blocks of lands that are either already protected or planned for protection, or which could feasibly be protected long-term by a public resource agency or a non-governmental organization dedicated to habitat preservation;

    d. Not have a history of intensive recreational use or other disturbance that might cause future erosion or other habitat damage, and make habitat recovery and restoration infeasible;

    e. Not be characterized by high densities of invasive species, either on or immediately adjacent to the parcels under consideration, that might jeopardize habitat recovery and restoration;

    f. Not contain hazardous wastes that cannot be removed to the extent that the site could not provide suitable habitat;

    g. Must provide wildlife movement value equal to that on the project site, to be determined by BLM, CDFG, and USFWS, based on topography, presence and nature of movement barriers or crossing points, location in relationship to other habitat areas, management feasibility, and other habitat values; and

    h. Have water and mineral rights included as part of the acquisition, unless the BLM and Riverside County, in consultation with CDFG and USFWS, agree in writing to the acceptability of land without these rights.

    i. Additional selection criteria for desert tortoise compensation lands:

        i. Compensation lands for impacts to desert tortoise will be within the Colorado Desert Tortoise Recovery Unit;

        ii. Will be contiguous and biologically connected to lands currently occupied by desert tortoise, ideally with populations that are stable, recovering, or likely to recover (for lands proposed as desert tortoise habitat compensation; and

iii. Will contribute to wildlife movement and desert tortoise population connectivity value at least equal to that on the project site, by contributing to linkages between desert tortoise designated critical habitat, known populations of desert tortoise, and other lands allocated for conservation. The primary focus area for acquiring parcels to maintain/improve connectivity will be along the I-10 corridor between Desert Center and Cactus City with a priority on parcels that connect conserved lands on either side of the I-10 through large culverts or bridges; the habitat compensation ratio for mitigation lands along the I-10 corridor will be 1:1 for each acre of total long-term and permanent disturbance. If acquisition of sufficient acreage within the I-10 corridor is not feasible, then the project owner will coordinate with Resource Agencies to identify other suitable lands to compensate for the project's impacts to desert tortoise habitat connectivity. The applicant shall use best efforts to acquire and restore lands within the Chuckwalla Valley to help maintain a connectivity corridor that is accessible to wildlife, and will support desert tortoise movement and occupancy.

iv. Located within the I-10 connectivity corridor (as identified in the Biological Opinion for the project) that constitute either (i) 1,800 acres, or (ii) if BLM approves a Project that requires less than 1,800 acres of compensatory mitigation lands, 100 percent of what is required under the Biological Opinion as adjusted for the smaller project. If the Project requires more than 1,800 total acres of mitigation land, the applicant agrees to use best efforts to acquire lands within Priority 1 or 2 desert tortoise connectivity lands within the NECO planning area, as identified in the Solar Energy Development PEIS, provided USFWS and CDFW confirm such lands satisfy the compensatory mitigation standards set forth in the Biological Opinion.

j. Additional selection criteria for special-status plant compensation lands. The compensation lands selected for acquisition for impacts to special-status plants will include at least one of the following categories:

i. Occupied Habitat, No Habitat Threats. The compensation lands selected for acquisition will be occupied by the target plant population and will be characterized by site integrity and habitat quality that are required to support the target species, and will be of equal or better habitat quality than that of the affected occurrence. The occurrence of the target special-status plant on the proposed acquisition lands should be viable, stable or increasing (in size and reproduction).

ii. Unoccupied but Adjacent. The project owner may also acquire habitat for which occupancy by the target species has not been documented, if the proposed acquisition lands are adjacent to occupied habitat. The project owner will provide evidence that acquisition of such unoccupied lands would improve the defensibility and long-term sustainability of the occupied habitat by providing a protective buffer around the occurrence and by enhancing connectivity with undisturbed habitat.

k. If all or any portion of the acquired compensation lands meets the habitat occupancy or suitability requirement for more than one of the resources listed above, that portion of those compensation lands may also be used to fulfill that

portion of the obligation to acquire compensation lands to mitigate impacts to those resources.

4. **Review and Approval of Compensation Lands Prior to Acquisition.** The project owner will submit a formal acquisition proposal to the BLM, USFWS, CDFG, and Riverside County describing the parcel(s) intended for purchase. This acquisition proposal will discuss the suitability of the proposed parcel(s) as compensation lands in relation to the selection criteria listed above, and must be approved by the BLM, CDFG, USFWS, and Riverside County in. The project owner will submit the formal acquisition proposal to the JTNP for review and comment.

5. **Management Plan.** The project owner or approved third party will prepare a management plan for the compensation lands in consultation with the entity that will be managing the lands. The goal of the management plan will be to support and enhance the long-term viability of the biological resources. The Management Plan will be submitted for review and approval to the BLM, CDFG, USFWS, and Riverside County, in consultation with the JTNP. A copy of the final Management Plan will be provided to the JTNP.

6. **Compensation Lands Acquisition Requirements.** The project owner will comply with the following requirements relating to acquisition of the compensation lands after the BLM, USFWS, CDFG, and Riverside County have approved the proposed compensation lands:

    a. **Preliminary Report.** The project owner, or an approved third party, will provide a recent preliminary title report, initial hazardous materials survey report, biological analysis, and other necessary or requested documents for the proposed compensation land to the BLM, USFWS, CDFG, and Riverside County. All documents conveying or conserving compensation lands and all conditions of title are subject to review and approval by the BLM and Riverside County. For conveyances to the State, approval may also be required from the California Department of General Services, the Fish and Game Commission, and the Wildlife Conservation Board.

    b. **Title/Conveyance.** The project owner will acquire and transfer fee title to the compensation lands, a conservation easement over the lands, or both fee title and conservation easement, as required by the BLM, USFWS, CDFG, and Riverside County. Any transfer of a conservation easement or fee title must be to CDFG, to a non-profit organization qualified to hold title to and manage compensation lands (pursuant to California Government Code section 65965), or to BLM or other public agency approved by the BLM and Riverside County. If an approved non-profit organization holds fee title to the compensation lands, a conservation easement will be recorded in favor of CDFG or another entity approved by the BLM and Riverside County. If an entity other than CDFG holds a conservation easement over the compensation lands, the BLM and Riverside County may require that CDFG or another entity approved by the BLM, USFWS, and Riverside County, in consultation with CDFG, be named a third party beneficiary of the conservation easement. The project owner will obtain approval of the BLM, USFWS, CDFG, and Riverside County of the terms of any transfer of fee title or conservation easement to the compensation lands.

c. **Initial Protection and Habitat Improvement.** The project owner will fund activities that the BLM and Riverside County require for the initial protection and habitat improvement of the compensation lands. These activities will vary depending on the condition and location of the land acquired, but may include trash removal, construction and repair of fences, invasive plant removal, and similar measures to protect habitat and improve habitat quality on the compensation lands. The costs of these activities are estimated to be $330 per acre of compensation land, but actual costs will vary depending on the measures that are required for the compensation lands. A non-profit organization, CDFG or another public agency may hold and expend the habitat improvement funds if it is qualified to manage the compensation lands (pursuant to California Government Code section 65965), if it meets the approval of the BLM and Riverside County in consultation with USFWS and CDFG, and if it is authorized to participate in implementing the required activities on the compensation lands. If CDFG takes fee title to the compensation lands, the habitat improvement fund must be paid to CDFG or its designee.

d. **Property Analysis Record.** Upon identification of the compensation lands, the project owner will conduct a Property Analysis Record (PAR; Center for Natural Lands Management 2012) or PAR-like analysis to establish the appropriate amount of the long-term maintenance and management fund to pay the in-perpetuity management of the compensation lands. The PAR or PAR-like analysis must be approved by the BLM, Riverside County, USFWS, and CDFG before it can be used to establish funding levels or management activities for the compensation lands.

e. **Long-term Maintenance and Management Funding.** The project owner will provide money to establish an account with non-wasting capital that will be used to fund the long-term maintenance and management of the compensation lands. The amount of money to be paid will be determined through an approved PAR or PAR-like analysis conducted for the compensation lands. Until an approved PAR or PAR-like analysis is conducted for the compensation lands, the amount of required funding is initially estimated to be $1,450 for every acre of compensation lands. If compensation lands will not be identified and a PAR or PAR-like analysis completed within the time period specified for this payment, the project owner will either: (i) provide initial payment equal to the amount of $1,450 multiplied by the number of acres the project owner proposes to acquire for compensatory mitigation; or (ii) provide security to the BLM and Riverside County under subsection (g), “Mitigation Security,” below, in an amount equal to $1,450 multiplied by the number of acres the project owner proposes to acquire for compensatory mitigation. The amount of the required initial payment or security for this item will be adjusted for any change in the project Disturbance Area. If an initial payment is made based on the estimated per-acre costs, the project owner will deposit additional money as may be needed to provide the full amount of long-term maintenance and management funding indicated by a PAR or PAR-like analysis, once the analysis is completed and approved. If the approved analysis indicates less than $1,450 per acquired acre will be required for long-term maintenance and management, the excess paid will be returned to the project owner. The project owner must obtain the BLM

and Riverside County's approval of the entity that will receive and hold the long-term maintenance and management fund for the compensation lands. The BLM and Riverside County will consult with USFWS and CDFG before deciding whether to approve an entity to hold the project's long-term maintenance and management funds.

The project owner will ensure that an agreement is in place with the long-term maintenance and management fund holder/manager to ensure the following requirements are met:

i. **Interest.** Interest generated from the initial capital long-term maintenance and management fund will be available for reinvestment into the principal and for the long-term operation, management, and protection of the approved compensation lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action that is approved by the BLM and Riverside County and is designed to protect or improve the habitat values of the compensation lands.

ii. **Withdrawal of Principal.** The long-term maintenance and management fund principal will not be drawn upon unless such withdrawal is deemed necessary by the BLM, USFWS, CDFG, and Riverside County or by the approved third-party long-term maintenance and management fund manager, to ensure the continued viability of the species on the compensation lands.

iii. **Pooling Long-Term Maintenance and Management Funds.** An entity approved to hold long-term maintenance and management funds for the project may pool those funds with similar non-wasting funds that it holds from other projects for long-term maintenance and management of compensation lands. However, for reporting purposes, the long-term maintenance and management funds for this project must be tracked and reported individually to the BLM, USFWS, CDFG, and Riverside County.

f. **Other Expenses.** In addition to the costs listed above, the project owner will be responsible for all other costs related to acquisition of compensation lands and conservation easements, including but not limited to the title and document review costs incurred from other state agency reviews, overhead related to providing compensation lands to CDFG or an approved third party, escrow fees or costs, environmental contaminants clearance, and other site cleanup measures.

g. **Mitigation Security.** No fewer than 30 days prior to ground disturbance, the project owner will provide financial assurances to the BLM and Riverside County to guarantee that an adequate level of funding is available to implement any of the mitigation measures required by this condition that are not completed prior to the start of ground-disturbing project activities. Financial assurances will be provided to the BLM, USFWS, CDFG, and Riverside County in the form of an irrevocable letter of credit, a pledged savings account or another form of security ("Security") approved by the BLM, USFWS, CDFG, and Riverside County. The actual costs to comply with this condition will vary depending on the actual

costs of acquiring compensation habitat, the costs of initially improving the habitat, and the actual costs of long-term management as determined by a PAR report. Prior to submitting the Security to the BLM, USFWS, CDFG, and Riverside County, the project owner will obtain the BLM, USFWS, CDFG, and Riverside County's approval of the form of the Security. The BLM, USFWS, CDFG, and Riverside County may draw on the Security if the BLM, USFWS, CDFG, and Riverside County determine the project owner has failed to comply with the requirements specified in this condition. The BLM, USFWS, CDFG, and Riverside County may use money from the Security solely for implementation of the requirements of this condition. The BLM, USFWS, CDFG, and Riverside County's use of the Security to implement measures in this condition may not fully satisfy the project owner's obligations under this condition, and the project owner remains responsible for satisfying the obligations under this condition if the Security is insufficient. The unused Security will be returned to the project owner in whole or in part upon successful completion of the associated requirements in this condition.

Security for the requirements of this condition will be calculated as shown in Table 4.3-4. However, regardless of the amount of the security or actual cost of implementation, the project owner will be responsible for implementing all aspects of this condition, including acquisition and protection of additional habitat acreage if necessary to compensate for all impacts listed in this mitigation measure.

h. The project owner may elect to comply with the requirements in this condition for acquisition of compensation lands, initial protection and habitat improvement on the compensation lands, or long-term maintenance and management of the compensation lands, or any combination of these three requirements, by providing funds to implement those measures into the Renewable Energy Action Team (REAT) Account established with the National Fish and Wildlife Foundation (NFWF). To use this option, the project owner must make an initial deposit to the REAT Account in an amount equal to the estimated costs (as set forth in the Security section of this condition) of implementing the requirement and additional fees, management funds, and other costs associated with the NFWF account. If the actual cost of the acquisition, initial protection and habitat improvements, or long-term funding is more than the estimated amount initially paid by the project owner, the project owner will make an additional deposit into the REAT Account sufficient to cover the actual acquisition costs, the actual costs of initial protection and habitat improvement on the compensation lands, and the long-term funding requirements as established in an approved PAR or PAR-like analysis. If those actual costs or PAR projections are less than the amount initially transferred by the Applicant, the remaining balance will be returned to the project owner.

i. The responsibility for acquisition of compensation lands may be delegated to a third party other than NFWF, such as a non-governmental organization supportive of desert habitat conservation, by written agreement of the BLM, USFWS, CDFG, and Riverside County. Such delegation will be subject to approval by the BLM and Riverside County, in consultation with CDFG and USFWS, prior

to land acquisition, enhancement or management activities. Agreements to delegate land acquisition to an approved third party, or to manage compensation lands, will be executed and implemented within 18 months of the BLM and Riverside County's certification of the project.

j. The project owner may choose to compensate and mitigate for impacts to state-listed endangered species pursuant to §2081 of the California Endangered Species Act using one or both of the "in-lieu fee" or "advance mitigation" mechanisms set forth in AB 13. Compensation lands acquired through AB 13 may in whole or in part satisfy the compensation habitat requirements set forth in this mitigation measure, only to the extent that they do in fact provide habitat values and mitigation for significant impacts to the species and biological resources identified above, and are consistent with the selection criteria described above.